Appl. No. 09/970,586
Amdt. dated
Reply to Office Action of 04/10/2007

PATENT
Docket: 000157.

REMARKS

Claims 1, 2, 5-8, 11-19 and 21-24 are pending in the present application. Claims 1, 2, 5-8, 11-19 and 21-24 have been examined, claims 1, 2, 5-8, 11-19, 21 and 22 are allowed, and claims 23 and 24 are rejected. In the above amendments, claims 23 and 24 have been amended, and new claims 25-55 have been added. Therefore, after entry of the above amendments, claims 1, 2, 5-8, 11-19 and 21-55 will be pending in this application. Applicant believes that the present application is now in condition for allowance, which prompt and favorable action is respectfully requested.

Allowed Claims 1, 2, 5-8, 11-19, 21 and 22

Applicant notes with appreciation the allowance of claims 1, 2, 5-8, 11-19, 21 and 22.

Rejection of Claims 23 and 24 Under 35 U.S.C. §101

Claims 23 and 24 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Applicant submits that claims 23 and 24 recite "functional descriptive material", which "consists of data structures and computer programs which impart functionality when employed as a computer component." These claims recite various functions/operations performed by a processor executing instruction codes stored on a processor-readable medium. Support for these claims is given on page 17, lines 5-9, which states:

> "Also, some of the processes, functions (e.g., averaging and detecting), and elements (e.g., detector 600) described herein can be implemented with a general-purpose processor or a specially designed processor (e.g., controller 290) operated to execute instruction codes designed to achieve the functions described herein."

Applicant thus submits that claims 23 and 24 fall under the category of functional descriptive material recorded on a processor-readable medium. "When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized." Claims 23 and 24 are thus directed to statutory subject matter.

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Accordingly, the §101 rejection of claims 23 and 24 should be withdrawn.

Rejection of Claims 23 and 24 Under 35 U.S.C. §112, First Paragraph

Claims 23 and 24 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. The rejection indicates that "product", "medium" and "code" have not been positively disclosed in the present application.

Claims 23 and 24 have been amended to recite language closely conforming to the language used in the specification. Claims 23 and 24 each recites

"A processor-readable medium comprising instruction codes which, when executed by a processor, cause the processor to perform operations including: ... "

Applicant submits that support for claims 23 and 24 is given throughout the present application. For example, page 14, lines 1-6 state "detector 600 can be implemented in hardware or software, or a combination thereof. ... Detector 600 can be implemented as part of a modem firmware (e.g., DSP code) designed to execute on a processor (e.g., controller 290 in FIG. 2)." Page 16, lines 33-34 state "various aspects, embodiments, and elements of the invention can be implement in hardware or software, or a combination thereof." Page 17, lines 5-9 state "also, some of the processes, functions (e.g., averaging and detecting), and elements (e.g., detector 600) described herein can be implemented with a general-purpose processor or a specially designed processor (e.g., controller 290) operated to execute instruction codes designed to achieve the functions described herein."

Accordingly, the §112, first paragraph, rejection of claims 23 and 24 should be withdrawn.

New Claims 25-55

New dependent claims 25 and 26 recite additional features of the present application. Support for claim 25 is given on page 16, lines 26-27. Support for claim 26 is given on page 10, lines 24-26. New independent claims 27, 28 and 34 recite the features of allowed claim 1. Dependent claims 29-33 and 35-39 recite features of allowed claims 2, 7, 11, 12 and 13, respectively.

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New claims 40-55 recite features of a transmitter, which are complementary to the features of allowed claims 1, 2, 11, 12 and 13 for a receiver. Support for claims 40-55 is given in FIGS. 2 and 5B of the present application and in the accompanying text. New claims 25-55 should thus be allowed.

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REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: Aug. 9, 2007

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